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UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	2:10-cr-190-GMN-RJJ-1
)	
Plaintiff,)	
)	
v.)	<u>UNOPPOSED MOTION FOR JOHNSON</u>
)	<u>TO REMAIN ON RELEASE PENDING</u>
STACY JOHNSON,)	<u>HER APPEAL</u>
)	
Defendant.)	
_____)	

Pursuant to 18 U.S.C. § 3143(b)(1), Stacy Johnson moves for her continued release pending appeal. Counsel for the United States has no objection to this motion.

Points and Authorities

Johnson was convicted on April 4, 2012 of embezzling from a labor union (a violation of 29 U.S.C. § 501(c)) and of falsifying union records (a violation of 29 U.S.C. § 439(c)). She was sentenced on August 23, 2012 to 12 months and 1 day on the embezzlement counts and to 1 year on the falsifying of union records counts. All the sentences were run concurrently. The court allowed Johnson to remain out on release after she was sentenced until Wednesday, November 21, 2012, at 12:00 noon; at which time she was to surrender to the U.S. Marshals.

Johnson filed a notice of appeal on August 27, 2012. On October 23, 2012, the parties filed a stipulation to continue Johnson's self-surrender date. CR #167. Pursuant to the parties' stipulation, Johnson's self-surrender date was continued to Monday, February 4, 2013 at 12:00 noon, and Johnson would file a motion to expedite the appeal. *Id.* The parties also agreed that "[u]pon receiving Ms. Johnson's opening brief, the government will review it and if, in their sole discretion, they believe Ms. Johnson has set forth an issue that entitles her to relief, the government will agree not to oppose a second request to continue (or stay) the self-surrender date

1 until the Ninth Circuit reaches a decision on the appeal.” *Id.* This court granted the parties’
2 stipulation. CR #168.

3 Johnson moved to expedite the appeal on October 31, 2012. The Ninth Circuit granted
4 Johnson’s motion on November 15, 2012 and expedited the appeal.

5 Johnson filed her opening brief yesterday afternoon. This morning I spoke with Assistant
6 United States Attorney, Elizabeth White, who is representing the government in Johnson’s
7 appeal. She has authorized me to represent that the government does not oppose continuing
8 Johnson’s release until a three-judge Ninth Circuit panel issues its decision in the appeal. Ms.
9 White emphasized that the government’s non-opposition is unrelated to the potential merit of any
10 issue presented in Johnson’s opening brief; instead, it is based solely on the facts that 1) the
11 sentence this Court imposed is relatively short and, if a stay is not granted, Johnson is likely to
12 have served much or all of the sentence before the appeal is decided; and 2) the Ninth Circuit has
13 granted the parties’ request for expedited consideration of the appeal.

14 Therefore, Johnson respectfully requests the court grant this unopposed motion and order
15 that Johnson remain out on release pending her appeal.

16 The requirements of 18 U.S.C. § 3143(b)(1) have been met. Johnson has been out on
17 release, on a personal recognizance bond, since May 14, 2010. While on release, Johnson is
18 supervised by Sandra Bustos. Ms. Bustos has stated that Johnson complies with all the release
19 conditions imposed by the court and that she is one of the most prompt individuals Ms. Bustos
20 has supervised. Ms. Bustos is not opposed to Ms. Johnson remaining out on release during the
21 appeal. There is clear and convincing evidence therefore that Johnson is not likely to flee or pose
22 a danger to the safety of any other individual or the community if she remains on release pending
23 the appeal. *See* 18 U.S.C. § 3143(b)(1)(A). And, Johnson’s appeal is not for the purpose of
24 delay and it raises a substantial question of law or fact likely to result in reversal, an order for a
25 new trial, a sentence that does not include a term of imprisonment, or a reduced sentence to a
26 term of imprisonment less than the total of the time already served plus the expected duration of
27

the appeal process. *See* 18 U.S.C. § 3143(b)(1)(B).

Conclusion

The Court should grant this motion and allow Johnson to remain out on release pending the appeal.

DATED: January 30, 2013.

s/ Mario D. Valencia
MARIO D. VALENCIA
Counsel for Stacy Johnson

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date, January 30, 2013, he served a true and accurate copy of the foregoing to the United States District Court, who will e-serve the following addressee:

ELIZABETH OLSON WHITE
Assistant United States Attorney
100 West Liberty #600
Reno, NV 89501
Counsel for Plaintiff

Service via U.S. Mail, First-Class postage prepaid to:

STACY JOHNSON # 44937-048
5937 High Steed, Apt. #103
Henderson, NV 89011
Defendant

s/ Mario D. Valencia
MARIO D. VALENCIA

It is so Ordered this 30 day of January, 2013.


UNITED STATES DISTRICT JUDGE
Gloria M. Navarro